

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANT:	Tejaswini Hosali, et al.)	
)	Group Art Unit: 3623
)	
SERIAL NUMBER:	10/091,827)	Examiner:
)	Beth V. Boswell
FILED:	March 6, 2002)	
)	
FOR:	SYSTEM AND METHOD FOR)	Confirmation No. 8463
	DYNAMICALLY ROUTING AN OBJECT)	
	THROUGH AN ORGANIZATION'S)	
	WORKFLOW SYSTEM)	

Commissioner for Patents
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REPLY BRIEF

In response to the Examiner's Answer mailed June 2, 2010, the Appellant submits the following reply as follows:

ARGUMENT

Rejection of Claims 23-24 under 35 U.S.C. 112, second paragraph

In the Examiner's Answer mailed on June 2, 2010, claims 23-24 have been newly rejected under 35 U.S.C. §112, second paragraph. The Examiner states on page 4 of the Examiner's Answer that claims 23 and 24 fall within the purview of 35 U.S.C. §112, sixth paragraph as reciting "means plus function" claims. The rejection further asserts the following:

35 U.S.C. §112, sixth paragraph requires that a means plus function claim be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof. "If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112," citing *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994) (in banc.). The Examiner further asserts, "[f]or a computer-implemented means-plus-function claim limitation that invokes 35 U.S.C. §112, paragraph 6, the corresponding structure is required to be more than simply a general purpose computer," citing *Aristocrat Technologies, Inc. v. international Game Technology*, 521 F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). Also, "[t]he written description must at least disclose the algorithm that transforms the general purpose microprocessor to a special purpose computer programmed to perform the claimed function," citing *Aristocrat*, 521 F.3d at 1338, 86 USPQ2d at 1242.

The Examiner points to locations in the Appellant's specification and drawings that 'appear' to describe the corresponding structure for performing the claimed invention (Answer, page 5), but asserts that the specification and drawings do not disclose sufficient corresponding structure, material or acts for performing the claimed function. With respect to claim 23, the Examiner states, "the specification does not specifically describe how the recited function is performed (Answer, pages 5-6).

The Appellant submits that the Examiner has erred in the rejection of claims 23-24 under 35 U.S.C. §112, second paragraph. Assuming, *arguendo*, that 35 U.S.C. §112, sixth paragraph applies, *viz-a-viz*, the claims recite means-plus-function elements that satisfy the three-prong test set forth in MPEP 2181, the Appellant's specification, drawings, and claims as originally filed clearly spell out the recited functional elements, as well as the structural detail through which the recited functions are performed.

In one embodiment described in the specification, on page 6, lines 4-9 and 11-19, the specification discloses a dynamic routing system 10 operating as software on a host server 15. The servers and clients shown in Figure 1 are described as part of a "cloud-like communication network 20...comprised of communication lines and switches connecting servers...to gateways [which] provide the communication access to the Internet. Users...are represented by a variety of computers...[and] the host server 15 is connected to the network 20 via a communication slink 55." Thus, as described in the Appellant's specification and shown in Figure 1, there is ample support for the structural elements required to perform the functionality recited in claims 23 and 24.

Additionally, the functionality, i.e., algorithm as recited in the claims is clearly disclosed in Figure 2 and supporting description (e.g., "FIG. 2 illustrates a method of operation 100 of the dynamic routing system 10 of FIG. 1," page 7, lines 14-15).

As stated by the court in *Aristocrat*, to employ means-plus-function language, the applicant must "at least disclose the algorithm that transforms the general purpose microprocessor to a special purpose computer programmed to perform the disclosed algorithm." *Aristocrat*, 521 F.3d at 1338. "This is typically done by using detailed flowcharts and written descriptions of the algorithm." *Id.*

This requirement is entirely satisfied by the Appellant's disclosed invention. An algorithm performed by the dynamic routing system 10 of Figure 1 is implemented by a computer (i.e., structural element), as shown and described in Figure 1. The method, or algorithm, goes on to be described on pages 6 through 9, and is illustrated in Figure 2. For example, the recited "means for parsing the object into portions that are likely to follow different workflow paths" from claim 23

is described in part on page 7, lines 14-17 (i.e., The “[m]ethod 100 analyzes an incoming document [object], at step 102, parsing the text...to determine the customer reference number”) and the workflow paths in the disclosure are described as being determined, in part by the customer reference number, which is used to locate a client in a customer data, which information in turn is used to retrieve the account administrator contact number for the customer. Determination rules are used to identify the “note” field on the contact record, which is then used to determine the sales organization, employee positions and jobs related to the customer/client record (Specification, page 7, lines 14-25). This information is eventually used or applied to business rules for routing the work item (object) to specific users and/or groups determined from the organization database 75 (Specification, page 8, lines 12-14). Accordingly, the Appellant’s disclosure and Figures clearly describe an algorithm supporting the features recited in claims 23 and 24, as well as structural elements for performing the method/algorithm. Accordingly, the rejection of claims 23 and 24 under 35 U.S.C. § 112, second paragraph is in error and should be reversed.

Rejection of Claims 1-4, 8, 9, 11-15, 19, 20, and 22-24 under 35 U.S.C. 102(e)

Claims 1-4, 8, 9, 11-15, 19, 20, and 22-24 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Bacon et al., U.S. Patent No. 6,430,538 (hereinafter “Bacon”). In the Examiner’s Answer, the Examiner construes the Appellant’s claimed feature, “based on examined information and organizational structure, determining the appropriate destination for the object at a lowest possible granularity level within the organization,” as meaning “using data information and an organizational structure, determining the appropriate destination for an object *based on the lowest level in the hierarchy of the organization structure*,” (emphasis added).

The words of a claim must be given their plain meaning unless such meaning is inconsistent with the specification. *Phillips v. AWH Corp.* 75 USPQ2d 1321 (Fed. Cir. 2005). In addition, while an understanding of the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim MPEP 2111.01.

The term, “granularity” has a common language meaning in the field of data processing, and in particular computer-implementable data processing. In the field of computing, the term “generally refers to the level of detail at which code is considered.” (The Free On-line Dictionary of Computing, Denis Howe 2010, <http://foldoc.org>). As interpreted by the Examiner, the term is asserted to mean a ***lowest level in the hierarchy of an organization’s structure***. The Examiner provides no reliable source for such interpretation of this term. The Appellant traverses the interpretation of the claimed term provided by the Examiner as a ‘plain language’ since it does not comport with known and well-understood definitions in the art, and is therefore, not an accurate plain language interpretation. As interpreted, the Examiner has improperly imported into the Appellant’s claims limitations that are not part of the claims. In addition, the Appellant further submits that alleged ‘plain meaning’ of the term may not be properly applied to the instant application, as it is inconsistent with the Appellant’s specification. For example, in just one of many instances throughout the specification, the term granularity is described in terms of a specific level of detail (“the system 10 then searches the organization database 75 for the most granular level (e.g., ***the specific Account Administrator individual***) of the positions, jobs, or organizational units that relate to the group code or person code indicated by that account administrator identification” (page 7, line 29 – page 8, line 3; emphasis added). Thus, the specification clearly indicates a particular level of detail with regard to the granularity determination. The specific level of detail is in contradiction to the Examiner’s applied interpretation (lowest level in the organizational hierarchy), which implies a direct relationship between the level of granularity and the importance (level in the hierarchy) of the hierarchy the data is directed.

The arguments presented in the Appellant’s Appeal brief remain applicable here in response to the proper interpretation of the term “granularity.” Thus, the rejections of claims 1-4, 8, 9, 11-15, 19, 20, and 22-24 have been rejected under 35 U.S.C. §102(e) as being anticipated by Bacon are improper and should be withdrawn.

CONCLUSION

In view of the foregoing, it is urged that the rejection of claims 1-24 be overturned. The rejection is in error and should be reversed. The fee set forth in 37 CFR 41.20(b)(2) is enclosed herewith. If there are any additional charges with respect to this Reply Brief, or otherwise, please charge them to Deposit Account No. 50-0510.

Respectfully submitted,

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